

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TEXAS

BEAUMONT DIVISION

STEVEN KIDERLEN

§

VS.

§

CIVIL ACTION NO. 1:13-CV-658

JOHN B. FOX, ET AL.

§

ORDER OVERRULING PLAINTIFF'S OBJECTIONS AND ADOPTING
THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Plaintiff Steven Kiderlen, a federal prisoner confined in Beaumont, Texas, proceeding *pro se*, filed this civil rights action pursuant to *Bivens v. Six Unknown Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), against John B. Fox, R. Childers, Forbes, Kenneth Russo, R. Horton, D. Froisness, C. Brown, M. Fry, and P. Lamb.

The court ordered that this matter be referred to the Honorable Keith F. Giblin, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this Court. The Magistrate Judge recommended dismissing the complaint pursuant to 28 U.S.C. § 1915(g), unless plaintiff paid the \$350 filing fee within fourteen days.

The court has received and considered the Report and Recommendation of United States Magistrate Judge, along with the record and the pleadings. Plaintiff has not paid the filing fee, but he filed objections to the Magistrate Judge's Report and Recommendation.

The court has conducted a *de novo* review of the objections in relation to the pleadings and the applicable law. *See* FED. R. CIV. P. 72(b). After careful consideration, the court concludes the objections are without merit. Plaintiff claims concern three isolated instances of staff misconduct that allegedly took place at the Beaumont penitentiary on February 22, 2013, May 18, 2013, and July 1, 2013. Plaintiff was transferred from the penitentiary to a prison facility in Colorado within days

after he filed this action. Plaintiff has not demonstrated that the isolated incidents placed him in imminent danger of serious physical harm.

ORDER

Accordingly, plaintiff's objections are **OVERRULED**. The findings of fact and conclusions of law of the Magistrate Judge are correct, and the report of the Magistrate Judge is **ADOPTED**. A final judgment will be entered in this case in accordance with the Magistrate Judge's recommendation.

So **ORDERED** and **SIGNED** this **12** day of **March, 2014**.

A handwritten signature in black ink, appearing to read "Ron Clark", is written above a horizontal line.

Ron Clark, United States District Judge